



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,965	06/21/2001	Russell L. Kress	Kress 400	5029

7590 03/28/2007
Mr. Edward J. Timmer
Walnut Woods Centre
5955 W. Main Street
Kalamazoo, MI 49009

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
----------	--------------

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/886,965

Applicant(s)

KRESS, RUSSELL L.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/27/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11,18,24,25,28-34,43,44,46,48-51 and 53-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-9,18,24,25,28-34,43,44,46,48-51 and 53-59 is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #2,486,371 to MANKKI in view of US Patent #5,398,465 to TAGG and US Patent #5,913,610 to DUCK. MANKKI discloses a modular living enclosure (10) including a plurality of sections such that the sections define a floor (16), a top wall – being the ceiling of the building (column 1, line 54 to column 2, line 1 and column 2, lines 5-14), four side walls (17-20), and a door opening (48); wherein, the enclosure includes an integral bathroom feature in the form of a toilet bowl (34) that is integral with a surface (22a), column 3, lines 39-40. Column 9, line 65 to column 10, line 2, MANKKI discloses the use of a septic tank or cesspit for disposal of sewage. Although the structure of MANKKI is an integral structure, column 2, line 16, he does not detail the structure is molded. The applicant is reminded that in apparatus claims, the method of forming a device is not germane to the issue of patentability of the device itself. It is the final product that is given patentable weight. Furthermore, MANKKI, column 2, line 30, does detail “stamping” “stamping” in a sense is a method used to mold a material about the predefined shape of a “stamping” device. MANKKI discloses the basic claimed enclosure except for being formed from plastic, except for explicitly detailing that his surface (22a) is fully capable of existing as a bed, and except for detailing that his septic tank is associated with an electric disposal. Regarding the issue of plastic, TAGG

Art Unit: 3635

teaches that it is known in the art to form an enclosure (10) out of plastic, column 4, line 61 and column 5, lines 49-55. As for the electric disposal, DUCK teaches the use of a disposal pump (131,135) operated by a battery/electrical motor (411). It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the enclosure of MANKKI out of the plastic material, as taught by TAGG, and to provide the enclosure with the disposal of DUCK in order to eliminate possible corrosion, cut down on material costs and weight of the enclosure itself, and to facilitate an quick, safe and sanitary way of disposing of the sewage therethrough. In reference to the surface (22a) of MANKKI being a bed, although MANKKI is silent in this regard and actually details this surface as a seat, it would have been obvious to one having ordinary skill in the art at the time the invention was made that there is nothing precluding the surface (22a) of MANKKI from being a bed.

Allowable Subject Matter

Claims 1,3-9,18,24,25,28-34,43,44-46,48-51,53-59 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne M. Horton
Examiner
Art Unit 3635